CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60225 of 2023

[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-169-2022-23 dated 06.01.2023 passed by the Commissioner (Appeals), CGST, Chandigarh]

M/s Hummock Infrastructure Pvt. Ltd ......**Appellant**
C/o Anshul & Associates
SCO 52-53, 2nd Floor,
Sector 9-D,
Chandigarh-160009

VERSUS

Commissioner of Central Goods & Service Tax, Chandigarh ......**Respondent**
Plot No. 19, C R Building,
Sector 17-C,
Chandigarh-160017

APPEARANCE:

Shri Anshul, Chartered Accountant for the appellant

Shri Kanish Saini, Authorized Representative for the respondent

CORAM: HON'BLE Mr. S. S. GARG, MEMBER (JUDICIAL)

FINAL ORDER NO. 61022/2025

DATE OF HEARING: 27.08.2025
DATE OF DECISION: 29.08.2025

The present appeal is directed against the impugned order dated 06.01.2023 passed by the Commissioner (Appeals) whereby the Commissioner (Appeals) has rejected the appeal of the appellant and upheld the Order-in-Original.

2. Briefly the facts of the present case are that on the basis of third party data as received from the Income Tax Department for the

year 2015-16, it was observed that there were gross receipts from services as per Income Tax data and comparatively no service tax returns filed during the said year by the appellant. Accordingly, a Show Cause Notice bearing dated 28.12.2020 was issued to the appellant for recovery of Service Tax amounting to Rs.6,55,770/- under Section 73 along with interest under Section 75 of the Act on the non-paid/differential amount and penalties under Section 77 and Section 78 of the Act were also proposed to be imposed. It was alleged in the Show Cause Notice that no service tax returns were filled for the financial year 2015-16 and there was amount received on account of Services in financial records by the appellant and there by the appellant has not paid Service Tax. After following the due process, the Adjudicating Authority confirmed the demand of service tax of Rs.6,55,770/- along with interest under Sections 73 & 75 of the Act. Penalties of Rs.10,000/- and Rs.6,55,770/- were also imposed under Section 77(2) and Section 78 of the Act. Aggrieved by the said order, the appellant filed appeal before the Commissioner (Appeals) who rejected the same. Hence, the present appeal.

3. Heard both sides and perused the records of the case.

4. Learned Consultant for the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the evidences furnished by the appellant before both the authorities below. He further submits that the Original Authority has wrongly considered the sale of goods of Rs.45,22,554/- as consideration for provision of service. He further submits that in

the ITR filed by the appellant, the appellant has wrongly shown the same as receipt for services whereas, in fact, it was for sale of goods on which the appellant had duly discharged VAT on the said sale of goods. He further submits that in order to show his bona fide, the appellant has produced the VAT Returns of the relevant period as well as the invoices which clearly shows that the impugned turnover was for sale of goods and there is no service tax involved in it. He also submits that the learned Commissioner (Appeals) in the impugned order has wrongly observed that the appellant has not been able to produce anything on record to support his submission whereas he has produced all the VAT Returns as well as the invoices.

5. Learned Consultant has also produced before me the grounds of appeal filed before the Commissioner (Appeals) wherein also it has been stated that the copies of VAT Returns as well as the invoices were produced but the learned Commissioner has not considered the same and has merely confirmed the original order.

6. On the other hand learned AR reiterates the findings of the impugned order.

7. After considering the submissions of both the parties and perusal of the material on record, I find that show cause notice was issued, in this case, on the basis of third-party information. Further, I find that the Original Authority has considered the turnover of sale of goods as consideration for provisions of service because in the ITR, the appellant has wrongly shown the same as receipt for services whereas, in fact, it was the sale of goods on which the appellant has

duly discharged VAT. Further, I find that VAT Returns pertaining to the period in dispute have been produced before the Commissioner (Appeals) also but the same has not been considered; the appellant has produced VAT Returns and invoices along with the present appeal which clearly shows that the turnover was for sale of goods and not for provision of service and therefore, I am of the considered view that the impugned order is not sustainable in law and I set aside the same by allowing the appeal of the appellant with consequential relief, if any, as per law.

(Order pronounced in the open court on 29/08/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

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